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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,838	07/26/2001	Janani Janakiraman	AUS920010497US1	7170

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Robert H. Frantz  
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Oklahoma City, OK 73123-2334

EXAMINER
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VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
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3622

MAIL DATE	DELIVERY MODE
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07/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/915,838	<b>Applicant(s)</b> JANAKIRAMAN ET AL.	
	<b>Examiner</b> John Van Bramer	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on March 28, 2008 cancelled claims 2, 3, 5, 7-13, 15, 17-23, 25, and 27-29. No new claims were added and Claims 1 was amended. Thus the currently pending claim is Claims 1.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "determining an identification of the user" and "using said user identification, determining ethnic background, age gender and income level characteristics of said user". It is unclear how the identification of the user is being made, and how such identification is able to be used to determine the ethnic background, age, gender, and income level of the user. As the applicants specification states there are "many well-known methods for identifying these visitors and tracking browsing sessions are available in the art, including URL rewriting, depositing and retrieving of cookies, or receiving a user profile which was created by the user upon registration for his or her user ID" (Paragraph [0036]. Another such method is identifying the user based upon an IP

address. In all of these methods of identification, some form of registration step that requires the user to supply information that includes their ethnic background, age, gender and income level is required. Additionally, a step of storing the registration information would be necessary if the identification of the user is able to be used to determine the user's ethnic background, age, gender and income level.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "accessing advertisement effectiveness data for said user's ethnic background, age, gender, and income level". However, there is no step of gathering or storing effectiveness data in the claims. Therefore, it is unclear where said data is coming from and how it is accessed.
5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "producing a new, previously non-existing composite electronic advertisement still image data". It is unclear what the applicant means regarding a new, previously non-existing composite electronic advertisement still image data. If the applicant intends that every produced composite electronic advertisement still image data is new, and previously did not exist, then it is unclear how the effectiveness of the advertisement still

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image data can be measured, since every ad can only be seen by one user. If the applicant intends that the advertisement still image data can be the same if the users ethnic background, age, gender, and income level are the same, as the examiner suspects, then the advertisement still image data has been shown to more than one user and therefore is not new and has previously existed. The examiner has reviewed the applicant's specification in order to provide direction as to the intent of the phrase "new, previously non-existing" but was unable to find the phrase in the specification.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 is rejected under 35 U.S.C. 102(b) as anticipated by Evolutionary Banners (Gatarski "Evolutionary Banners, exploring a generative design approach", Generative Art '98 Conference Paper, December 1998, pgs 1-20 (hereafter referred to as Conference 98) and (Gatarski, "Evolutionary Banners, An Experiment With Automated Advertising Design", COTIM-99 Conference Paper, Sept 1999, pgs 1-9 (hereafter referred to as Conference 99)

Claim 1: Evolutionary Banners discloses a method for dynamically generating targeted electronic advertisements comprising the steps of:

- a. Providing a first data object repository containing a plurality of human model still image data objects, each of said human model still objects being indexed to demographic image characteristics including ethnic appearance, age appearance, gender appearance, and income level appearance. (Conference 98: Page 9, lines 21-28; Page 10, Figure3; Page 13, Table 1; Page 13, line 4 through Page 14, line 12; Page 14, Figure 6; Page 15, Figure 7; and Page 18, lines 13-19) (Conference 99: Page 2, lines 22-39; Page 3, lines 7-26; and Page 6, line 27 through Page 7, line 17)
- b. Providing a second data object repository containing a plurality of advertisement message still image data objects, said advertisement message still image data objects containing a plurality of differing advertisement messages and being devoid of human model images, said second data object repository being separate from said first data object repository. (Conference 98: Page 9, lines 21-28; Page 10, Figure3; Page 13, Table 1; Page 13, line 4 through Page 14, line 12; Page 14, Figure 6; Page 15, Figure 7; and Page 18, lines 13-19) (Conference 99: Page 2, lines 22-39; Page 3, lines 7-26; and Page 6, line 27 through Page 7, line 17)
- c. Responsive to a web page request from a user of a web browser, determining an identification of the user. (Conference 98: Page 5, lines 5-7; and Page 18,

- lines 13-19) (Conference 99: Page 2, lines 22-39; Page 3, lines 7-26; and Page 6, line 27 through Page 7, line 17)
- d. Using said user identification, determining ethnic background age, gender and income level characteristics of said user. (Conference 98: Page 5, lines 5-7; and Page 18, lines 13-19) (Conference 99: Page 2, lines 22-39; Page 3, lines 7-26; and Page 6, line 27 through Page 7, line 17)
- e. Selecting a human model still image data object from said first data object repository matching said user's ethnic appearance, age appearance, gender appearance, and income level appearance characteristics. (Conference 98: Page 9, lines 21-28; Page 10, Figure3; Page 13, Table 1; Page 13, line 4 through Page 14, line 12; Page 14, Figure 6; Page 15, Figure 7; and Page 18, lines 13-19) (Conference 99: Page 2, lines 22-39; Page 3, lines 7-26; and Page 6, line 27 through Page 7, line 17)
- f. Accessing advertisement effectiveness data for said user's ethnic background, age, gender, and income level. (Conference 98: Page 16, lines 18-24; Page 17, lines 21-27 and Page 18, lines 13-19) (Conference 99: Page 2, lines 22-39; Page 3, lines 7-26; and Page 6, line 27 through Page 7, line 17)
- g. Selecting an advertisement message still image data object from said second repository according to said advertisement effectiveness data for said user's ethnic background, age, gender, and income level. (Conference 98: Page 9, lines 21-28; Page 10, Figure3; Page 13, Table 1; Page 13, line 4 through

- Page 14, line 12; Page 14, Figure 6; Page 15, Figure 7; and Page 18, lines 13-19) (Conference 99: Page 2, lines 22-39; Page 3, lines 7-26; and Page 6, line 27 through Page 7, line 17)
- h. Producing a new, previously non-existing composite electronic advertisement still image data object by overlaying said selected human model still image data object onto said selected advertisement message still image data object. (Conference 98: Page 9, lines 21-28; Page 10, Figure3; Page 13, Table 1; Page 13, line 4 through Page 14, line 12; Page 14, Figure 6; Page 15, Figure 7; and Page 18, lines 13-19) (Conference 99: Page 2, lines 22-39; Page 3, lines 7-26; and Page 6, line 27 through Page 7, line 17)
  - i. Transmitting said composite electronic advertisement still image data object to said web browser. (Conference 98: Page 9, lines 21-28; Page 10, Figure3; Page 13, Table 1; Page 13, line 4 through Page 14, line 12; Page 14, Figure 6; Page 15, Figure 7; and Page 18, lines 13-19) (Conference 99: Page 2, lines 22-39; Page 3, lines 7-26; and Page 6, line 27 through Page 7, line 17)
  - j. Displaying said composite electronic advertisement still image data object to said user by said web browser. (Conference 98: Page 9, lines 21-28; Page 10, Figure3; Page 13, Table 1; Page 13, line 4 through Page 14, line 12; Page 14, Figure 6; Page 15, Figure 7; and Page 18, lines 13-19) (Conference 99: Page 2, lines 22-39; Page 3, lines 7-26; and Page 6, line 27 through Page 7, line 17)



***Response to Arguments***

8. Applicant's arguments, filed March 28, 2008, with respect to amended claim 1 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is

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(571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JV  
/J. V./  
Examiner, Art Unit 3622

/Eric W. Stamber/  
Supervisory Patent Examiner, Art Unit 3622

